

EXHIBIT 2

Case Clip(s) Detailed Report
Monday, April 21, 2014, 9:18:17 PM

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PLAINTIFF'S EXHIBIT NO. 3010


United States District Court
Northern District of California
No. 12-CV-00630-LHK (PSG)

Apple Inc. v. Samsung Elecs.

Date Admitted: _____ By: _____

 Maccoun, James - 8/16/2013

1 CLIP (RUNNING 00:15:22.134)

 Good morning, Mr. Maccoun. ...

MACCOUN 45 SEGMENTS (RUNNING 00:15:22.134)



1. PAGE 5:08 TO 5:09 (RUNNING 00:00:02.372)

08 Q. Good morning, Mr. Maccoun.
09 A. Good morning.

2. PAGE 5:19 TO 5:22 (RUNNING 00:00:11.103)

19 Who are you currently employed by?
20 A. I'm employed by Google Inc. 09:39
21 Q. How long have you been employed by Google?
22 A. Since 2011.

3. PAGE 6:04 TO 6:05 (RUNNING 00:00:02.914)

04 Q. Are you an attorney?
05 A. Yes, I am. 09:38

4. PAGE 7:21 TO 7:24 (RUNNING 00:00:10.137)

21 Q. Do you understand that you are appearing today
22 as a corporate witness on behalf of Google to give
23 testimony in response to several of the topics in this
24 notice?

5. PAGE 8:03 TO 8:04 (RUNNING 00:00:06.793)

03 THE WITNESS: I understand I'm here in response
04 to the -- this subpoena that I have in my hands.

6. PAGE 13:09 TO 13:15 (RUNNING 00:00:23.233)

09 Q. I'm not sure that I understand your answer. So
10 let me just ask you, Topic 28 asks for any agreement 09:51
11 with or request by Samsung to indemnify it for defense
12 costs and/or liability related to this litigation. My
13 question to you is: Is there any agreement with Samsung
14 to indemnify it for defense costs or liability related
15 to this litigation? 09:51

7. PAGE 13:18 TO 13:21 (RUNNING 00:00:17.377)

18 THE WITNESS: There is a Mobile Applications
19 Development Agreement, and I understand that to be an
20 agreement between Google Inc. and Samsung relating to 09:52
21 indemnity and defense.

8. PAGE 14:08 TO 14:11 (RUNNING 00:00:09.072)

08 Pursuant to that agreement that you just
09 referred to, has Google agreed to indemnify Samsung for 09:52
10 any liability or defense costs associated with this
11 litigation?

9. PAGE 14:16 TO 14:19 (RUNNING 00:00:35.986)

16 THE WITNESS: So I understand that Google is
17 defending Samsung and that this is reflected by emails.
18 The -- I think that's probably a good way to
19 characterize it.

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10. PAGE 15:09 TO 15:14 (RUNNING 00:00:03.391)

09 MR. STONE: Would you please mark that as
10 Exhibit 2, please. 09:55
11 (Exhibit 2, Email string from Susan Kim to
12 Daniel.ko@samsung.com, 12/7/12,
13 GOOG-NDCAL630-00069118 - 124, marked for
14 identification.)

11. PAGE 15:15 TO 15:18 (RUNNING 00:00:07.143)

15 BY MR. STONE: 09:55
16 Q. Mr. Maccoun, have you seen what's been marked
17 as Exhibit 2 before?
18 A. Yes, I have.

12. PAGE 17:19 TO 17:23 (RUNNING 00:00:03.920)

19 MR. STONE: Mark this as Exhibit 3, please.
20 (Exhibit 3, Letter to Andy Rubin from
21 JaeHyoung Kim, 4/5/12,
22 GOOG-NDCAL630-00065923 - 24, marked for
23 identification.)

13. PAGE 17:24 TO 18:09 (RUNNING 00:00:38.443)

24 BY MR. STONE:
25 Q. Do you recognize what's been marked as. 09:59
00018:01 Exhibit 3, Mr. Maccoun?
02 A. Yes, I do.
03 Q. What is it?
04 A. It's a letter from Samsung to Google.
05 Q. And was this letter Samsung's initial request 09:59
06 to be indemnified for this litigation by Google?
07 A. I'm not aware of any earlier request.
08 Q. This is the first request that you're aware of;
09 is that correct?

14. PAGE 18:11 TO 18:12 (RUNNING 00:00:03.169)

11 THE WITNESS: This is the first request that
12 I'm aware of, yes.

15. PAGE 19:09 TO 19:13 (RUNNING 00:00:16.410)

09 Q. What is the Mobile Application Distribution
10 Agreement? I guess you referred to it as the M-A-D-A or 10:01
11 MADA.
12 A. It's an agreement between Google and Samsung.
13 Q. What's the purpose of the agreement?

16. PAGE 19:18 TO 19:25 (RUNNING 00:00:25.126)

18 THE WITNESS: Well, I suppose it had a variety
19 of purposes. But one of them is to provide
20 applications -- for Google to provide applications to 10:01
21 Samsung. But there were other purposes that are set
22 forth in the agreement.
23 BY MR. STONE:
24 Q. And I take it one provision of the agreement
25 relates to indemnification of Samsung by Google? 10:02

17. PAGE 20:03 TO 20:05 (RUNNING 00:00:06.131)

03 THE WITNESS: So I recall that the MADA does
04 have provisions relating to defense and indemnification.
05 BY MR. STONE: 10:02

18. PAGE 20:06 TO 20:07 (RUNNING 00:00:03.410)

06 Q. And the same is true for the Strategic

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07 Marketing Agreement?

19. PAGE 20:10 TO 20:15 (RUNNING 00:00:19.798)

10 THE WITNESS: Well, I -- it would be helpful to 10:02
11 see it. But in general, I seem to recall that the
12 Strategic Marketing Agreement simply incorporated the
13 provisions of the MADA -- or stated something to the
14 effect that the MADA would be similarly used. Something
15 like that. 10:02

20. PAGE 20:16 TO 20:21 (RUNNING 00:00:03.767)

16 MR. STONE: Would you please mark this as
17 Exhibit 4.
18 (Exhibit 4, Letter to JaeHyoun Kim and
19 Seong-Woo Kim from Allen Lo, 5/21/12,
20 GOOG-NDCAL630-00065935 - 37, marked for
21 identification.)

21. PAGE 20:22 TO 21:07 (RUNNING 00:00:48.844)

22 MR. STONE: Exhibit 3, which we were just
23 looking at, was dated April 5th. And it was a letter of
24 JaeHyoun Kim of Samsung to Mr. Andy Rubin of Google.
25 Exhibit 4 is a letter from Allen Lo of Google, 10:03
00021:01 Deputy General Counsel Patents and Patent Litigation, to
02 JaeHyoun Kim. And it's dated May 21, 2012. Subject
03 is: "Apple litigation alleged patent infringement."
04 Q. Have you seen this exhibit before?
05 A. Yes, I have. 10:04
06 Q. Is this Google's response to Samsung's request
07 for indemnification, dated April 5th, 2012?

22. PAGE 21:10 TO 21:12 (RUNNING 00:00:07.987)

10 THE WITNESS: The document does state, in the 10:04
11 first sentence, that it's a response to the letter of
12 April 5th, 2012.

23. PAGE 21:14 TO 21:16 (RUNNING 00:00:08.833)

14 Q. Okay. In this letter, did Google agree to
15 indemnify Samsung for any of the claims in the 10:04
16 litigation?

24. PAGE 21:21 TO 22:01 (RUNNING 00:00:17.135)

21 THE WITNESS: So as I read it, Google's
22 essentially offering to defend Samsung to the MADA and
23 does offer to defend some -- some claims.
24 BY MR. STONE:
25 Q. Which claims does Google offer to defend in 10:05
00022:01 this letter?

25. PAGE 22:02 TO 22:04 (RUNNING 00:00:11.362)

02 A. It seems to be stated in this last full
03 paragraph of the second page that -- more or less, the
04 parameters.

26. PAGE 22:05 TO 22:16 (RUNNING 00:00:59.466)

05 Q. Are you referring to the sentence that states: 10:06
06 "We believe that Apple's allegations in Apple Inc.
07 Versus Samsung Electronics Company Limited, et al., Case
08 Number 511CV00630LHK, regarding asserted U.S. Patent
09 Number" -- and then it refers to the '959 patent and the
10 '604 patent -- "may fall within this obligation"? 10:07
11 A. Yeah, but I believe that, more or less, is the
12 essence of this.

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13 Q. So is it your understanding that in this
14 letter, Google's offering to indemnify Samsung for the
15 claims made with respect to those two patents but not to 10:07
16 any other claims in litigation?

27. PAGE 22:18 TO 22:20 (RUNNING 00:00:22.839)

18 THE WITNESS: So I believe that there is -- in
19 the December -- December 5th email, there may be
20 additional claims that Google is offering to defend. 10:08

28. PAGE 27:16 TO 27:20 (RUNNING 00:00:17.036)

16 Q. So Google is offering to defend and indemnify
17 Samsung with respect to the claims regarding the '959
18 and '604 patents and is requesting that Samsung tender
19 the defense of those claims to it? Is that what you
20 understand this letter is doing? 10:19

29. PAGE 27:22 TO 28:02 (RUNNING 00:00:33.019)

22 THE WITNESS: So Google is asking Samsung to
23 tender the defense so that Google can defend Samsung.
24 And that's really what I see this sentence saying.
25 BY MR. STONE: 10:19
00028:01 Q. When you say "tender the defense," what does
02 that mean, to tender the defense?

30. PAGE 28:06 TO 28:07 (RUNNING 00:00:03.596)

06 THE WITNESS: This is a requirement that's set
07 forth in the MADA.

31. PAGE 28:09 TO 28:09 (RUNNING 00:00:01.763)

09 Q. And what is that requirement?

32. PAGE 28:15 TO 28:18 (RUNNING 00:00:25.201)

15 THE WITNESS: And so I understand it to be a 10:20
16 legal term of art, more or less, allowing the indemnitor
17 to control the litigation and defense. That's more or
18 less a summary of the idea.

33. PAGE 32:18 TO 33:21 (RUNNING 00:02:27.411)

18 Q. Mr. Maccoun, I'd like to turn back to what was
19 previously marked as Exhibit 2 to your deposition,
20 Exhibit 2, which is the December email. Do you have 10:31
21 that?
22 A. I do (indicating).
23 Q. On the second page, there is an email in the
24 middle from Susan Kim of Google, dated December 5th,
25 2012, re: Google indemnification for Samsung. 10:31
00033:01 Do you see that?
02 A. Yes.
03 Q. That's an email to Daniel Ko of Samsung; is
04 that correct?
05 A. It appears to be. It's -- I see his name in 10:32
06 another email.
07 Q. Okay.
08 A. I see his last name in another email, which is
09 part of a set.
10 Q. Okay. And do you understand this email to set 10:32
11 forth the terms of indemnification for Samsung for this
12 litigation that Google has offered?
13 A. So the -- the terms are set forth in the MADA.
14 But this is something which is Google offering to do in
15 relationship to the MADA. 10:33
16 Q. In connection with the indemnification

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17 provision in the MADA, in this litigation Google is
18 offering to indemnify Samsung as set forth in this
19 email; correct?
20 A. So Google's offering to defend and indemnify, 10:33
21 as set forth in this email, pursuant to the MADA.

34. PAGE 33:22 TO 34:05 (RUNNING 00:00:34.710)

22 Q. Okay. The first paragraph of this email says,
23 "For the '959 and '604 patents, Google will indemnify
24 Samsung for Apple's allegations against the Quick Search
25 Box."
00034:01 Is that your understanding, that Google is
02 offering to indemnify Samsung for the allegations in
03 this case regarding the Quick Search Box?
04 A. So this is an offer that Google made. I have
05 no reason to believe that that has changed. 10:34

35. PAGE 34:16 TO 34:18 (RUNNING 00:00:10.667)

16 Q. Okay. Has Samsung tendered to Google the
17 defense of the claims against the Quick Search Box with
18 respect to the '959 and '604 patents?

36. PAGE 34:20 TO 34:20 (RUNNING 00:00:02.414)

20 THE WITNESS: So far as I know, it has. 10:35

37. PAGE 34:22 TO 35:06 (RUNNING 00:00:50.638)

22 Q. Well, if you turn to the next page of the
23 exhibit, the one ending in Bates Number 120, this is an
24 email, dated November 25th, 2012, from Daniel Ko at
25 Samsung to Susan Kim and Chester Day of Google; correct? 10:36
00035:01 Do you see that?
02 A. Yes, I do.
03 Q. And Mr. Ko of Samsung writes in this email
04 that -- he's summarizing what Samsung and Google agreed
05 so far regarding the Google's indemnification in this 10:36
06 case; is that right?

38. PAGE 35:09 TO 35:11 (RUNNING 00:00:14.238)

09 THE WITNESS: So there is a sentence which
10 states: "I summarized what Samsung and Google agreed so 10:36
11 far regarding the Google indemnification."

39. PAGE 36:12 TO 36:14 (RUNNING 00:00:08.573)

12 Q. Do you understand that Google has control and
13 authority over the defense of the '959 and '604 patents
14 in this litigation?

40. PAGE 36:18 TO 36:19 (RUNNING 00:00:03.412)

18 THE WITNESS: I have no reason to believe
19 that's not the case.

41. PAGE 37:17 TO 37:20 (RUNNING 00:00:16.045)

17 Q. To prepare for your deposition today, did you
18 make any inquiry into whether Google has tendered the
19 defense of any of the claims in this litigation pursuant
20 to the MADA indemnification provision? 10:41

42. PAGE 37:24 TO 38:04 (RUNNING 00:00:17.036)

24 THE WITNESS: So I believe that, generally
25 speaking, Samsung has made a tender and that Google is 10:41
00038:01 defending with respect to those two patents. But I
02 don't have specific knowledge.

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03 And in answer to your question, I did not make
04 a specific inquiry into that.

43. PAGE 40:04 TO 40:14 (RUNNING 00:00:56.989)

04 Q. Okay. Paragraph 3 of Susan Kim's December 5,
05 2012, email relates to the '414 patent. It states: 10:45
06 "Google will indemnify Samsung for Apple's allegations
07 against Gmail pursuant to the terms of the MADAs."
08 Is it your understanding that Google has
09 offered to indemnify Samsung for Apple's allegations
10 against Gmail with respect to the '414 patent? 10:45
11 A. So I -- I understand that this email offered
12 that and -- basically to defend and, if necessary,
13 indemnify. I don't have any reason to believe that's
14 changed.

44. PAGE 46:08 TO 46:12 (RUNNING 00:00:28.225)

08 Q. With respect to paragraphs 1, 2 and 3 in
09 Susan Kim's December 5th email related to the '959,
10 '604, '502, and '414 patents, each of those paragraphs 10:57
11 states: "Google will indemnify Samsung for certain of
12 Apple's allegations."

45. PAGE 46:15 TO 46:18 (RUNNING 00:00:25.000)

15 THE WITNESS: So I see it as a general term 10:58
16 relating to providing a defense against claims, and then
17 can mean other things depending on the outcome of
18 litigation.

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 00:15:22.134)

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